REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-2, and 6-14 are pending in this case. Claims 3-5 have been canceled without prejudice or disclaimer. Claims 10-14 are new. Claims 1, 6, and 8 have been amended by the present Amendment. Amended and new Claims 1, 6, 8, and 10-13 are supported by original Claims 3-6 and paragraphs [0048], [0049], [0051], [0054] and [0057] of the specification. No new matter has been added.

In the outstanding Office Action, Claims 1-9 were rejected on the ground of non-statutory obviousness-type double patenting; and Claims 1-9 were rejected under 35 U.S.C. § 103(a) as unpatentable over Imanaka et al. (U.S. Patent No. 6,282,669, hereinafter "Imanaka") in view of Katsube et al. (U.S. Patent No. 6,188,689, hereinafter "Katsube").

With regard to the non-statutory double patenting rejections of Claims 1-9 in view of Claims 1-9 of U.S. Application No. 10/287,959, the rejection is respectfully traversed in light of the terminal disclaimer submitted herewith.

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Accordingly, Applicants respectfully request the rejection of Claims 1-9 under non-statutory obviousness-type double patenting, be withdrawn.

In response to the rejection of Claims 1-9 under 35 U.S.C. § 103(a) as unpatentable over Imanaka in view of Katsube, Applicants respectfully submit that amended independent Claim 1 recites novel features clearly not taught or rendered obvious by the applied references.

Amended independent Claim 1 is directed to a process for implementing a redundant switched full-duplex Ethernet type communication network including, *inter alia*:

> ...accepting the received frame only within a predetermined time window if its frame number has not already been received during the predetermined time window.

Imanaka describes a Ethernet communication redundancy method. Figure 1 shows a system-A communication line 1 and a system-B communication line 2 used to perform Ethernet communication between a plurality of nodes such as nodes 10 and 20. System-A devices 11 and 21 serve as interfaces for exchanging data through the system-A communication line 1. System-B devices 12 and 22 serve as interfaces for exchanging data through the system-B communication line 2.[1]

Page 6 of the outstanding Official Action asserts that Figures 5 and 6; and column 6, lines 30-64 of Imanaka describes "a process, wherein the accepting only accepts within a given time window." However, Imanaka describes that a control section 26 checks whether reception data is registered in the system-A reception queue 24, and if any reception data is registered, the reception times of all the registered reception data are compared with the current time to check whether any reception data has undergone a predetermined timeout after the reception time.[2] If any reception data has undergone the predetermined timeout after the reception time, the control section 26 determines that data identical to the reception data in the system A was not received in the system B after the lapse of the timeout period, a

[1] See Imanaka at column 2, lines 42-65.
[2] See Imanaka at column 6, lines 35-41.

reception abnormality has occurred in the system B, and the control section 26 sets system B in an abnormal communication state. The control section 26 then deletes information about the reception data having undergone the timeout from the system-A reception queue 24.[3]

However, Imanaka fails to teach or suggest "accepting the received frame only within a predetermined time window if its frame number has not already been received during the predetermined time window," as in Applicants' amended independent Claim 1. In Imanaka, reception data is received and registered in the system-A reception queue 24 and then the reception data is checked as to whether the reception data was received after the lapse of the timeout period. If the reception data has undergone the predetermined timeout after the reception time, the control section 26 deletes information about the reception data having undergone the timeout from the system-A reception queue 24. Thus, in Imanaka reception data is accepted at all times. If the reception data has undergone a predetermined timeout after the reception time, control section 26 deletes information about the reception data having undergone the timeout from the system-A reception queue, control section 26 does not delete the reception data itself.

In contrast, in Applicants' amended independent Claim 1, a frame is only accepted ***within a predetermined time window*** if its frame number has not already been received during the predetermined time window. In Imanaka, reception data is always accepted, but information about the reception data having undergone a timeout is deleted from reception queue if the reception data has in fact undergone a predetermined timeout after the reception time.

Accordingly, Applicants respectfully submit that amended independent Claim 1 patentably defines over Imanaka and Katsube.

[3] See Imanaka at column 6, lines 42-50.

Accordingly, Applicants respectfully request the rejection of Claims 1-9 under 35 U.S.C. § 103(a), be withdrawn.

In order to vary the scope of protection recited in the claims, new Claims 10-14 are added. New Claims 10-14 find non-limiting support in the disclosure as originally filed, for example at original Claim 5, and paragraphs [0048], [0049], [0051], [0054] and [0057] of the specification.

Therefore, the changes to the claims are not believed to raise a question of new matter.[4]

Consequently, in view of the present amendment, and in light of the above discussion, the pending claims as presented herewith are believed to be in condition for formal allowance, and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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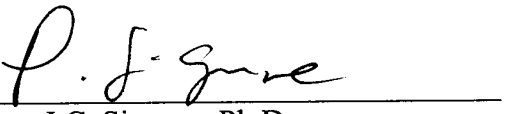

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[4] See MPEP 2163.06 stating that "information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."